



THE HIGH COURT OF KERALA

Ernakulam-682031
Email: dlsection.hc-ker@gov.in
Phone: 0484-2562985
Fax: 0484-2562451

No: **DI-3/ 27275/2020**

Dated: **15-05-2020**

OFFICIAL MEMORANDUM

Sub.: Functioning of Subordinate Courts from 18-5-2020
- advisory issued- reg.

Ref: High Court OM No.R. 10/2020(SS) dated 18.04.2020,
20.04.2020, 23.04.2020 and 24.04.2020

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The High Court had earlier issued the guidelines cited above regarding the functioning of the subordinate courts in the State during the lock down period. Now on considering the present situation and the hardships faced by the Courts, the public and the Lawyers and the suggestions put in by the learned District Judges, a fresh advisory, appended as annexure 'A' is issued regarding the functioning of the courts from 18.05.2020 for the guidance of the subordinate courts.

(By Order)

P.G. Ajithkumar

Registrar (Subordinate Judiciary)

To

All the District Judges

All the Chief Judicial Magistrates

IT Section, High Court (for publishing in the website)

The Public Relations Officer, High Court

**Functioning of Courts in the District Judiciary during the
post lockdown period - Advisories**

General

1. Crowding shall not be permitted in court halls or the court premises under any circumstance. The Presiding Officer of every court shall ensure that only a minimum number of persons (not more than 10 including the Presiding Officer) are present in Court hall.
2. Number of chairs inside the Court hall, therefore, be limited to 10.
3. The Courts, for regulating the number of persons, may give time slots for each case to be taken up on a day or split the posting of cases into morning and afternoon sessions, taking into account the convenience of the parties and their respective counsel. While doing so, the Presiding Officer shall ensure that sufficient work is done on the Bench.
4. The Courts shall ensure physical distancing norms and ensure compliance of the directives issued by the Central and State Governments for management of COVID-19.
5. The advocates, parties and witnesses concerning the case shall alone be permitted to be present inside the Court hall.
6. Number of Advocates, clerks, parties and witnesses, etc present in the Court compound shall be the minimum. In order to ensure it, the office bearers of the local Bar Association are to be taken

into confidence. With their assistance a strategy for the same shall be evolved following the National Directives for COVID-19 Management issued by the Central and State Governments.

7. Cases where presence of Advocates alone is required for the progress of the proceedings and disposal may be given preference in the daily cause list.
8. No coercive steps shall be taken/*ex parte orders passed* against any party or witness if the court is convinced that person or his/her counsel was unable to attend the Court due to travel restrictions imposed by the Government or its agencies for containment of COVID-19.
9. Wherever possible trial proceedings shall be resorted to through video-conferencing following the guidelines and etiquette contained in O.M No. R. 10/2020(SS) dt.18.4.2020.
10. In Red Zones and Hotspots, procedure being followed during the period of lockdown shall be continued.
11. Cause list may be published in the website of the District Court also.
12. If there is any problem in implementing the Advisories, the Principal District Judge shall immediately suspend functioning of the Court/s and report the matter to the High Court. Functioning of the Court/s can be restored only after obtaining direction of the High Court.

Civil Courts

1. No Court shall insist on the personal appearance of the parties in Court or for deciding whether or not the case to be referred to ADR mechanism u/s 89 of the CPC. The question of reference may be decided on the submissions of the counsel for both sides.
2. Every Civil Court in the State shall prepare a restricted cause list for all working days in a week in the preceding week itself limiting for each day the minimum number of cases to be considered in open Court. Cases included in the special list for trial and other cases essentially to be taken up on the day alone shall be included in the cause list. This shall be done with a view to avoid crowding of people including lawyers inside and outside the Courtroom.
3. All cases posted to each day except those included in the cause list shall be adjourned by the Presiding Officer by passing necessary order in the order sheet. Thereafter such adjournment shall be notified and the notification shall be published along with the cause list. Any such case may be taken up on the posting date if the court is convinced of the urgency. If so taken up, notice shall be given to all the parties.
4. The Cause List so prepared shall be communicated at least on the last working day of the preceding week to the local Bar association/s for circulation and information and it shall be published in the notice board.

5. The Courts shall give priority to 5+ year old cases, and time bound cases ordered by the Higher Courts.
6. Civil Courts shall conduct trials of cases listed for the day, hearing of petitions or appeals etc., after allotting specific time slots for each case considering the convenience of both sides. Alternatively, cases may be distributed in two sessions; morning and after noon.
7. Fresh cases where urgent interim reliefs are sought for, shall also be thus considered every day at a specific time.
8. In cases where a Commissioner has been appointed for recording evidence, the Commissioner shall be specifically instructed to comply with the physical distancing norms while recording evidence. However, considering the exigency, Courts may only sparingly appoint a Commissioner for recording evidence.

Criminal Courts.

1. Criminal Courts shall not insist on the personal appearance of accused/parties except in cases where their presence is essential for examination of witnesses or unavoidable for proceeding further with the case.
2. Every Criminal Court in the State shall prepare a restricted cause list for all the working days in a week in the preceding week itself limiting for each day the minimum number of cases to be considered in open Court. Cases specifically scheduled for framing of charge, examination of witnesses, 313 examination,

final hearing and other cases essentially to be taken up on the day alone shall be included in the cause list. This shall be done with a view to avoid crowding of people including lawyers inside and outside the Courtroom.

3. All cases posted to each day except those included in the cause list shall be adjourned by notification and the notification shall be published along with the cause list. Any such case may be taken up if the court is convinced of the urgency. If so taken up, notice shall be given to all the parties.
4. Petty cases can be taken up for disposal wherever personal appearance is not required. Follow the procedure in the Cr.PC.
5. The Cause List so prepared shall be communicated to the local Bar association/s for circulation and information and it shall be published in the notice board. However, if urgency is pointed out, inclusion of a case in the list shall be done after notice to the other side.
6. Trial of cases/hearing of petitions, appeals etc. listed for the day shall be done after allotting specific time slots for each case considering the convenience of both sides. Alternatively, cases may be distributed in two sessions; morning and afternoon.
7. The Courts shall give priority to 5+ year old cases, and time bound cases ordered by the Higher Courts.
8. When there are more accused than one in a case, necessary arrangements shall be made for maintaining physical distancing between the accused while in the dock.

9. If summons to a large number of witnesses are already issued, necessary intimation shall be given to the prosecuting agency to regulate the presence of witness as per the directions given above.
10. Remand extension of undertrial prisoners, except where police custody is to be given or presence of the accused is essential for the purpose of trial, shall be done through video linkage as per the directions in this regard.

Filing

1. E-filing of cases is not started in the State. in order to combat the threat of COVID-19, use of paper shall be minimized. It is necessary to ensure that papers used in unavoidable situations have passed through only limited hands.
2. If number of cases filed in any Court/complex is more, the District Judge shall devise a scheme for virtual queue. Advocates/parties may request by e-mail for time slots. Time slot for filing each case shall be allotted ensuring that there is not crowding in the officer premises. Such time slot pattern shall be followed for the return of defective matters and re-presentation.
3. For the presentation of papers relating to the cases filed during the period of lock down through e-mail, separate counter may be provided, where also a scheme of providing time slot may be followed.

4. Wherever possible, judicial service centres can be used as counters for filing, return of defective matters and re-presentation.

Video-conferencing

1. District Courts, as far as possible, shall hear bail applications through video-conferencing.
2. Whenever trial or hearing of a case/proceedings is done through video-conferencing, guidelines and etiquette prescribed for video-conferencing as per O.M No. R. 10/2020(SS) dt.18.4.2020 shall be followed.
